

auxiliary electrode. Claims 1 to 4 read on the elected species, and new claim 9 is generic to Groups I and II, and reads on them.

However, for the reasons set forth below, Applicants respectfully request that the claims of Group II be rejoined for prosecution, and that the election of species requirement be withdrawn. M.P.E.P. § 808.02 states that “the Examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following:” a separate classification of the species, a separate status in the art when the species are classified together, and a different field of search. The Examiner has failed to make the required showing.

With regard to the classification of the claims, at present, all of the claims are classified as under Class 438, Subclass 680. Therefore, there is no separate classification.

With regard to a separate status in the art, under M.P.E.P. § 808.02(B), the Examiner is required to show that “[e]ven though they are classified together, each subject can be shown to have formed a separate subject for inventive effort when an explanation indicates a recognition of separate inventive effort by the inventors.” In the present case, no such explanation indicating a recognition of separate inventive effort has been made by the Examiner. Therefore, there is no separate status in the art.

With regard to the field of search for each group of claims, M.P.E.P. § 808.02(C) states that “[w]here it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists, a different field of search is shown, even though the two are classified together.” In the present case, no such showing has been made by the Examiner, nor has there been any reason to believe a different field of search exists. Applicants submit that, should any pertinent art exist, a search of one of the groups of claims will necessarily uncover art for both groups of claims. Therefore, only one search is required for all of the claims.

Moreover, 37 C.F.R. § 1.146 states that the Examiner may require restriction where “the application contains claims directed to more than a reasonable number of species.” In the present case, the Examiner has found only two species of the presently claimed invention. Applicants respectfully submit that two is not “more than a reasonable number of species.” Therefore, searching all of the claims together does not place an undue burden upon the Examiner.

Finally, under M.P.E.P. § 809.02(c), claim 9 is generic to both Groups I and II, and, thus, assuming it will be found allowable, all species claims covered by the generic claims must be rejoined.

Therefore, as stated above, Applicants respectfully request that the election requirement be withdrawn, and that all claims be examined on their merits.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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VERSION MARKED TO SHOW SPECIFICATION AND CLAIM CHANGES

1. (Amended) A film-forming method for forming a deposited film on a substrate arranged in a substantially enclosed film-forming vessel by means of plasma CVD, said film-forming vessel being provided with a raw material gas introduction means and an exhaustion means, said film-forming method comprising the steps of introducing a raw material gas comprising at least a hydrogen gas and a silicon-containing raw material gas into said film-forming vessel through said raw material gas introduction means, maintaining an inner pressure of said film-forming at a desired value by means of said exhaustion means and introducing a high frequency power into said film-forming vessel through a discharge electrode provided in said film-forming vessel to generate a plasma in a plasma generation region between said substrate and said discharge electrode in said film-forming vessel [whereby] thereby forming said deposited film on said substrate maintained at a desired temperature, characterized in that the formation of said deposited film on said substrate is performed while applying a periodicity voltage having at least two different waveform components having a different amplitude to an auxiliary electrode arranged at a position in said plasma generation region of said film-forming vessel.

5. (Amended) A film-forming method for forming a deposited film on a substrate arranged in a substantially enclosed film-forming vessel by means of plasma CVD, said film-forming vessel being provided with a raw material gas introduction means and an exhaustion means, said film-forming method comprising the steps of introducing a raw material gas comprising at least a hydrogen gas and a silicon-containing raw material gas into said film-forming vessel through said raw material gas introduction means, maintaining an inner pressure of said film-forming at a desired value by means of said exhaustion means and introducing a high frequency power into said film-forming vessel

through a discharge electrode provided in said film-forming vessel to generate a plasma in a plasma generation region between said substrate and said discharge electrode in said film-forming vessel [whereby] thereby forming said deposited film on said substrate maintained at a desired temperature, characterized in that said substrate is retained in a state of having a floating potential in said film-forming vessel, an auxiliary electrode is provided on a side opposite a film-forming face of said substrate in said film-forming vessel, such that said auxiliary electrode is electrically isolated from said substrate, and the formation of said deposited film on said substrate is performed while applying a periodicity voltage having at least two different waveform components having a different amplitude to said auxiliary electrode.